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11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE WESTERN DISTRICT OF WASHINGTON

14
15 EQUAL EMPLOYMENT OPPORTUNITY
16 COMMISSION,

17 Plaintiff,

18 v.

19 LOWE'S HOME IMPROVEMENT
20 WAREHOUSE, INC.

21 Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

22
23 NATURE OF THE ACTION

24 This is an action under Title VII of the Civil Rights Act of 1964 ("Title VII") and Title I of
25 the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of

sex and retaliation and to provide appropriate relief to Jeremiah Harrington ("Harrington"), Chester Davison ("Davison") and Amber Fasolino ("Fasolino"), who were adversely affected by such practices. The Equal Employment Opportunity Commission ("EEOC" or "the Commission") alleges that Defendant sexually harassed Harrington, Davison and Fasolino because of their sex, creating a hostile work environment. The EEOC also alleges that Defendant retaliated against Harrington, Davison and Fasolino when they complained of the harassment. Finally, the EEOC contends that Defendant's failure to take prompt remedial actions to stop the harassment, and Defendant's retaliatory actions, caused Harrington and Fasolino's constructive discharge. Plaintiff seeks monetary and injunctive relief, including pecuniary and nonpecuniary compensatory damages and punitive damages.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Washington.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the

1 administration, interpretation and enforcement of Title VII, and is expressly authorized to
2 bring this action by Section 706(f)(1) of Title VII, 42 U.S.C. §2000e-5(f)(1).

3 4. At all relevant times, Defendant, Lowe's Home Improvement Warehouse,
4 Inc., ("Lowe's") has continuously been a corporation doing business in the State of
5 Washington and has continuously had at least 15 employees.

6 5. At all relevant times, Defendant has continuously been an employer
7 engaged in an industry affecting commerce within the meaning of Sections 701(b), (g)
8 and (h) of Title VII, 42 U.S.C. §§2000e(b), (g) and (h).
9

10 STATEMENT OF CLAIMS

11 6. More than thirty days prior to the institution of this lawsuit, Harrington,
12 Davison and Fasolino filed charges with the Equal Employment Opportunity
13 Commission alleging violations of Title VII by Defendant Lowe's. All conditions
14 precedent to the institution of this lawsuit have been fulfilled.
15

16 7. From at least January, 2006, Defendant Lowe's engaged in unlawful
17 employment practices at its Longview, Washington facility in violation of § 703(a) of Title
18 VII, 42 U.S.C. § 2000e-2(a). Defendant engaged in these unlawful practices through
19 the following actions: (1) by subjecting Harrington and Davison to sexual harassment
20 starting in January 2006; (2) by subjecting Fasolino to sexual harassment starting in
21 February 2006; (3) by retaliating against Harrington and Davison based on their
22 complaints about the sexual harassment starting in May 2006 in violation of § 704(a) of
23 Title VII, 42 U.S.C. § 2000e-3(a); (4) by constructively discharging and/or discharging
24 Harrington in July 2006 based on the sexual harassment in violation of 42 U.S.C. §
25

1 2000e-2(a) and/or in retaliation for their complaints about the sexual harassment in
2 violation of 42 U.S.C. § 2000e-3(a); (5) by retaliating against Fasolino based on her
3 complaints about the sexual harassment starting in August 2006 in violation of § 704(a)
4 of Title VII, 42 U.S.C. § 2000e-3(a); & (6) by constructively discharging Fasolino in
5 August 2006 based on the sexual harassment in violation of 42 U.S.C. § 2000e-2(a)
6 and/or in retaliation for her complaints about the sexual harassment in violation of 42
7 U.S.C. § 2000e-3(a).
8

9 8. The effect of the practices complained of in paragraph 7 above has been
10 to deprive Harrington, Davison and Fasolino of equal employment opportunities and
11 otherwise adversely affect their status as employees of Lowes because of their sex.

12 9. The unlawful employment practices complained of in paragraph 7 above
13 were intentional.

14 10. The unlawful employment practices complained of in paragraph 7 above
15 were done with malice or with reckless indifference to the federally protected rights of
16 Harrington, Davison and Fasolino.
17

18 PRAYER FOR RELIEF

19 Wherefore, the Commission respectfully requests that this Court:

20 A. Grant a permanent injunction enjoining Defendant, its officers, successors,
21 agents, assigns, and all persons in active concert or participation with it, from engaging
22 in employment practices which discriminate on the bases of sex, and from engaging in
23 retaliation.
24
25

1 B. Order Defendant to institute and carry out policies, practices, and
2 programs which provide equal employment opportunities for all employees, and which
3 eradicate the effects of its past and present unlawful employment practices.

4 C. Order Defendant to make whole Harrington, Davison and Fasolino by
5 providing appropriate back-pay with pre-judgment interest, in amounts to be determined
6 at trial, and other affirmative relief necessary to eradicate the effects of its unlawful
7 employment practices.

8 D. Order Defendant to make whole Harrington, Davison and Fasolino by
9 providing compensation for past and future pecuniary losses resulting from the unlawful
10 employment practices described in paragraph 7 above, including past and future out-of-
11 pocket expenses, in amounts to be determined at trial.

12 E. Order Defendant to make whole Harrington, Davison and Fasolino by
13 providing compensation for past and future nonpecuniary losses resulting from the
14 unlawful practices complained of in paragraph 7 above, including without limitation
15 emotional pain, suffering, and loss of enjoyment of life, in amounts to be determined at
16 trial.

17 F. Order Defendant to pay Harrington, Davison and Fasolino punitive
18 damages for its malicious and reckless conduct described in paragraph 7 above, in
19 amounts to be determined at trial.

20 G. Grant such further relief as the Court deems necessary and proper in the
21 public interest.

22 H. Award the Commission its costs of this action.
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24
25

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED this 25th day of February, 2008.

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